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ABSTRACT

This bulletin provides information to Missouri school districts on grading, credits, and graduation for students with disabilities. It reviews the difference between the Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act of 1973, and discusses discrimination toward students with disabilities and its prohibition in Section 504. State guidelines are then provided, including: (1) any specific graduation requirements may be waived for a student with a disability if recommended by the Individualized Education Program (IEP) committee; (2) students with disabilities receive grades and have credit transcribed in the same manner as all other students when they complete the same courses as other students; (3) students with disabilities who complete modified regular courses will receive grades and have credit transcribed in the same manner as other students; however, the fact that the courses were modified may be noted on the transcripts; (4) students with disabilities who meet state and local graduation requirements by taking and passing regular courses with/without modification, and/or successfully achieving IEP goals shall graduate and receive regular high school diplomas; and (5) students with disabilities who reach age 21 and have met district attendance requirements will receive a certificate of attendance. (CR)

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ED 436 894

TECHNICAL ASSISTANCE BULLETIN

FROM THE MISSOURI DEPARTMENT OF ELEMENTARY AND SECONDARY EDUCATION, DIVISION OF SPECIAL EDUCATION

ISSUES IN EDUCATION

GRADING, AWARDING CREDIT, AND GRADUATION FOR STUDENTS WITH DISABILITIES

JANUARY 1999

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Technical Assistance Bulletin

January 1999

from the Missouri Department of Elementary and Secondary Education, Division of Special Education

Issues in EDUCATION

Please copy and route to your staff

Grading, Awarding Credit, and Graduation
For Students with Disabilities

The Division of Special Education receives a number of inquiries each year regarding the issues of grading, awarding of credits, and graduation for students with disabilities. This technical assistance bulletin has been developed to clarify for districts some of the issues surrounding these topics.

Background

For most of our nation's history, schools were allowed to exclude and often did exclude certain children, especially those with disabilities. Since the 1960s, however, there has been a great deal of federal legislation that relates directly or indirectly to individuals with disabilities, particularly children and youth. The numerous court decisions rendered and state and federal laws passed since the 1960s now protect the rights of students with disabilities and guarantee that a free and appropriate publicly supported education (FAPE) is available to them.

Two of the most important laws for students with disabilities are the Individuals with Disabilities Education Act (IDEA) [formerly known as the Education of the Handicapped Act or P.L. 94-142] and the Rehabilitation Act of 1973, especially Section 504.

The IDEA and Section 504 of the Rehabilitation Act of 1973 are both administered by the U.S. Department of Education, Office of Special Education and Rehabilitative Services (OSERS). However, the authority for compliance with the two laws lies within two different divisions of OSERS. The authority for ensuring compliance with the IDEA falls under the auspices of the Office of Special Education Programs (OSEP). The IDEA also gives responsibilities for ensuring compliance with IDEA directly to the States. The authority for ensuring compliance with Section 504 lies with the Office for Civil Rights (OCR).

What is the Difference Between Section 504 and the IDEA?

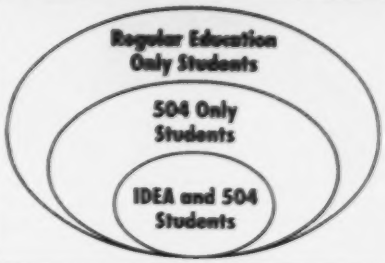
The IDEA specifically lists types of disabilities which render a child eligible to receive special education. Additionally, to be eligible to receive services under the IDEA, the disability must result in a need for special education. Districts are required to develop an Individualized Education Program (IEP) for any student found eligible for services under IDEA.

Section 504 is much broader than the IDEA. Section 504 provides that:

> No otherwise qualified individual with disabilities in the United States...shall, solely by reason of his/her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance or under any program or activity conducted by an Executive agency or by the United Postal Service. (20 USC Section 794)

If a child is eligible for services under IDEA, he or she will also be protected under Section 504. However, students eligible under Section 504 may not be eligible for services under the IDEA (see Figure 1). The regulations also make clear that certain conditions, such as drug and/or alcohol addiction, heart disease, etc., which would not qualify a child under the IDEA, may be disabilities under Section 504. While Section 504 requires that the condition "substantially limit a major life activity" such as walking, it need not necessarily adversely affect the student's educational performance, a requirement under the IDEA (see Figure 2).

Figure 1 Student Population



IDEA Students

Students are qualified under one or more of thirteen (13) disabling conditions. Specially designed individual education programs are planned for each student by IEP teams.

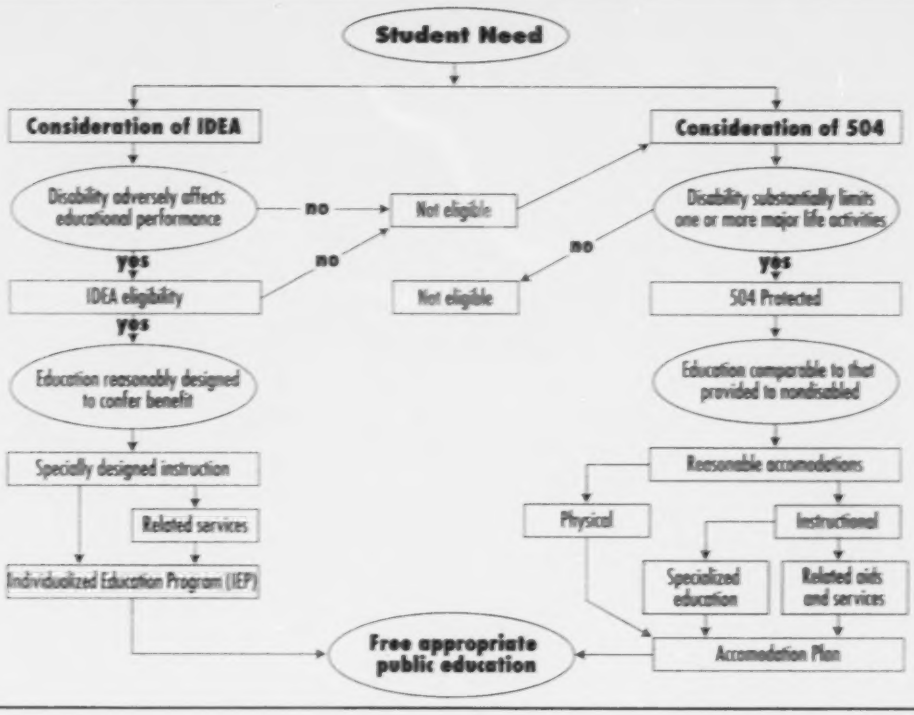
Section 504 Students Only

Due to substantial mental or physical impairments that limit one or more of the student's major life activities, special accommodations to the student's program are required. A 504 accommodation plan is designed for each student according to individual need.

Examples of potential 504 disabilities not typically covered under IDEA are:

- Communicable diseases—HIV, tuberculosis
- Medical conditions—asthma, allergies, diabetes, heart disease
- Temporary medical conditions due to illness or accident
- Behavioral difficulties
- Drug/alcohol problems
- Other conditions

Figure 2
IDEA/504 Flowchart



What Does IDEA Say About Grading, Awarding of Credit, and Graduation of Students with Disabilities?

The IDEA does not specifically address the issues of grading, awarding of credit, or graduation of students with disabilities. These issues are covered under the "discrimination" provisions of Section 504.

How is discrimination defined?

Discrimination under Section 504 occurs when a recipient of federal funds:

1. Denies an individual with a disability the opportunity to participate in or benefit from an aid, benefit, or service which is afforded nondisabled students (e.g., district practice of refusing to allow any student on an IEP the opportunity to be on the honor roll; denial of credit to a student whose absenteeism is related to his/her disability; expelling a student for behavior related to his/her disability; refusing to dispense medication to a student who could not attend school otherwise, etc.).

2. Fails to afford the person with disabilities an opportunity to participate in or benefit from the aid, benefit, or service that is equal to that afforded others (e.g., applying a Missouri State High School Athletic Association (MSHSAA) policy that conditions interscholastic sports eligibility on the student's receiving passing grades in five subjects without regard to the student's disability).

3. Fails to provide aids, benefits, or services to the person with a disability that are as effective as those provided to nondisabled persons (e.g., placing a student with a hearing impairment in the front row as opposed to providing him/her with an interpreter).

Note: "Equally effective" means equivalent, as opposed to identical. Moreover, to be equally effective, an aid, benefit, or service need not produce equal results; it must merely afford an equal opportunity to achieve equal results. Comment to 34 CFR 104.4 (b) (2).

4. Provides different or separate aids, benefits, or services unless such action is necessary to be as effective as the aids, benefits, or services provided to nondisabled students (e.g., segregating students in separate classes, schools, or facilities, unless necessary).

5. Aids or perpetuates discrimination by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability (e.g. sponsoring a student organization that excludes persons with disabilities).

6. Denies a person with disabilities the opportunity to participate as a member of a planning or advisory board strictly because of his/her disabilities.

7. Otherwise limits the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others (e.g., prohibiting a person with a physical disability from using a service dog at school).

8. In determining the site or location of a facility, makes selections that effectively exclude persons with disabilities, denies them the benefit of, or otherwise subjects them to discrimination. In Hendricks v. Gilhool, EHLR 441:352 (1989), the Pennsylvania Department of Education was found to have violated this section and the EHA by allowing students with disabilities to be located in inferior facilities such as trailers, wings in basements, and unnecessarily restrictive classrooms, due to a lack of classroom space. 35 CFR Section 104.4.

State Guidelines for Grading, Transcripting of Grades, Awarding of Credit, and Graduation of Students with Disabilities

To assist districts in meeting the requirements of the IDEA and providing for non-discriminatory treatment of students with disabilities in the areas of grading, transcripting of grades, awarding of credit, and graduation, the State Department of Elementary and Secondary Education developed a "Special Policy Consideration for Students with Disabilities" section in its publication *Graduation Requirements for Students in Missouri's Public Schools*. The policy is stated as such:

> Each school district must provide a free, appropriate public education for students with disabilities until they are graduated or attain the age of 21 years. Local school boards must establish policies and guidelines which ensure that students with disabilities have the opportunity to earn credits toward graduation in a nondiscriminatory manner and within the spirit and intent of that requirement. Local board of education policies *must* provide that:
>
> **1.** Any specific graduation requirement may be waived for a disabled student if recommended by the IEP Committee.
>
> **2.** Students with disabilities receive grades and have credit transcripted in the same manner as all other students when they complete the same courses as other students.
>
> **3.** Students with disabilities who complete regular courses modified as indicated in their IEPs to accommodate their disabilities will receive grades and have credit transcripted in the same manner as students who complete the same courses without modification; however, the fact that the courses were modified may be noted on the transcripts.
>
> **Note**: There has been disagreement among OCR regional offices as to whether this violates Section 504. Some school attorneys advise their districts not to do this.
>
> **4.** Students with disabilities who meet the goals and objectives of their IEPs, as measured by the evaluation procedures and criteria specified in the IEPs, will have credit transcripted in accordance with the state definition of units of credit.
>
> **5.** All students with disabilities who meet state and local graduation requirements by taking and passing regular courses without modification; taking and passing regular courses with modification; and/or successfully achieving IEP goals and objectives shall be graduated and receive regular high school diplomas.
>
> **6.** Students with disabilities who reach age 21, or otherwise terminate their education, and who have met the district's attendance requirements but who have not completed the requirements for graduation, receive a certificate of attendance.
>
> **Note**: A student with a disability who is awarded a Certificate of Attendance rather than a regular High School Diploma retains his/her rights to services under the IDEA until the age of 21.

Frequently Asked Questions

Can a student with a disability earn honors (such as Honor Roll, National Honor Society, or Valedictorian/Salutatorian)?

Yes. Each local district should have a policy that outlines the criteria that students must meet in order to qualify for various honors and awards. This policy must not be discriminatory in regard to students with disabilities.

Can a local district or IEP team waive MSHSAA rules regarding participation in extracurricular activities for students with disabilities?

No. The IEP team may determine that it is appropriate for a student to be on a modified grading system, and as long as the student meets the MSHSAA eligibility requirements under that system he or she may participate in extracurricular activities.

Can the IEP team override A+ Schools program requirements?

No. However, it is possible that with modifications agreed upon by the IEP team, the student will be able to meet an A+ Schools requirement that he or she could not have met without the modifications. For example, a grade point average a student achieves after modifications is valid. The IEP team cannot indicate that a lower GPA for a student would qualify him/her for A+ scholarship eligibility. It is important to stress that the IEP team should not act in retrospect, but must make modification decisions prior to the completion of any coursework. Modifications to grades may not be made on an informal basis by any teacher—the decision must be made by the IEP team and documented on the IEP.

As transition planning is a requirement in IDEA for all students ages 14 and older, it would be wise to have the application and other details of any A+ Schools participation included in the IEPs of all students beginning no later than age 14.

Are students with disabilities eligible for the financial incentives associated with A+ Schools?

Yes. As indicated in the response above, students with disabilities are eligible for participation in the A+ Schools program, and that would include the financial incentives portion of that program.

Continued on next page

Frequently Asked Questions (Continued)

Can a district indicate on a student's report card and/or permanent transcript that a grade received is based upon modifications to the classwork and/or curriculum?

Yes. Students with disabilities should have grades transcripted in the same manner as other students; however, for students who have received grades based upon modified classwork and/or curriculum, it may be noted as such on their report cards and/or permanent record.

Note: As indicated earlier in this bulletin, there is disagreement among OCR Regional Offices as to whether this violates Section 504. Districts should consult with their school attorney regarding this, as some attorneys advise districts against this practice.

Summary

- A local district must have a policy regarding grading, transcripting of grades, awarding of credit, and graduation of students with disabilities.
- Any specific graduation requirement may be waived for a student with a disability if recommended by the IEP team.
- Students with disabilities may be graded on modified scales, as determined by their IEP team. If this is the case, it must be indicated as such in the student's IEP.
- Students with disabilities should receive grades and have their grades transcripted the same as other students when they complete the same courses as other students with no modifications.
- Students with disabilities who have courses modified to accommodate their disability should receive grades and have them transcripted the same as other students; however, the fact that the course was modified may be noted on the student's transcript. (See the ***Notes*** in this document regarding this issue.)
- Students with disabilities who meet the goals and objectives of their IEPs will have credit transcripted in accordance with the state definition of units of credit.
- Students with IEPs may receive awards and honors according to local district policies and procedures. Local policies and procedures may not be discriminatory toward students with disabilities in this regard.
- Students with disabilities may participate in the A+ Schools program and receive any financial incentives awarded by the program, as long as they meet the requirements of the program. The requirements of the program may not be changed or waived by the local district for students with disabilities, but IEP teams can specify accommodations and/or modifications through the IEP for the student in order to enable him or her to meet the requirements of the program.
- Students with disabilities must meet MSHSAA and/or local district requirements for participation in extracurricular activities; however, the IEP team may specify that the student needs a modified grading system that would apply to the requirements.
- Students with disabilities should receive a regular High School Diploma if they have passed general education courses with or without modification or successfully met the goals and objectives of their IEP.
- Students with disabilities who have not completed requirements for graduation but have met the district's attendance requirements and reach the age of 21 (or otherwise terminate their education prior to age 21), may be awarded a Certificate of Attendance. IDEA requires that students who receive Certificates of Attendance prior to age 21 retain their right to special education services up to age 21.

For More Information

If a district has any questions regarding the above issues, call the Area Supervisor for Special Education or the Special Education School Improvement Section at (573) 751-0699 or contact:

Office for Civil Rights, Region VII
10220 North Executive Hills Boulevard, 8th Floor
Kansas City MO 64153-1367
(816) 880-4200

For additional resources on grading for students with disabilities, contact:

Center for Innovations in Special Education
1-800-976-2473 (MO only).

Resources

Missouri Department of Elementary and Secondary Education (1997). *Graduation requirements for students in Missouri's public schools: Guidelines for principals, counselors and other school personnel.* [On-line]. Available: http://dese.state.mo.us/divschsvc/supervision/gradndex.htm

Missouri Department of Elementary and Secondary Education (1996). *Student access: Section 504 of the Rehabilitation Act of 1973.* [On-line]. Available: http://www.dese.state.mo.us/divspeced/staccess.html

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